

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)	
)	
EASTERN LIVESTOCK CO., LLC,)	Case No. 10-93904-BHL-11
)	
Debtor.)	Hon. Basil H. Lorch III

**TRUSTEE'S MOTION TO APPROVE COMPROMISE AND SETTLEMENT
WITH TOM SVOBODA**

Pursuant to Federal Rule of Bankruptcy Procedure 9019, James A. Knauer, as chapter 11 trustee ("Trustee") for the bankruptcy estate (the "Estate") of Eastern Livestock Co., LLC ("Debtor"), by counsel, respectfully moves the Court to approve a compromise and settlement of claims between the Trustee and Tom Svoboda ("Svoboda"). In support of this Settlement Motion, the Trustee states as follows:

Introduction and Background

1. Certain petitioning creditors commenced the above-captioned chapter 11 case ("Chapter 11 Case") on December 6, 2010 (the "Petition Date"). The Court entered the *Order For Relief in An Involuntary Case and Order to Complete Filing* [Docket No. 110] on December 28, 2010.
2. On December 27, 2010, the Court entered the *Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 102] approving the *United States Trustee's Application for an Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 98] pursuant to 11 U.S.C. § 1104.
3. The Trustee filed the *Trustee's Chapter 11 Plan of Liquidation* on July 23, 2012 [Docket No. 1255] and the *First Amended Chapter 11 Plan of Liquidation* on October 26,

2012 [Docket No. 1490] ("Plan"). The Court entered an Order on December 17, 2012 [Docket No. 1644] ("Confirmation Order") confirming the Plan.

4. The Trustee contends that prior to the Chapter 11 Case, Debtor purchased 162 head of cattle from or through Svoboda ("Svoboda Cattle"). The Svoboda Cattle were delivered to J&F Oklahoma Holdings, Inc. ("J&F") or one of its feedyards.

5. J&F interpled \$159,670.28 for the Svoboda Cattle that it received ("Interpled Funds"), with the Court in connection with Adversary Proceeding No. 11-59093 (the "Adversary").

6. Svoboda filed its Answer to the J&F First Amended Complaint (the "Svoboda Answer") as Docket No. 348 in the Adversary. In the Svoboda Answer, Svoboda asserted a claim to the Interpled Funds.

7. The Trustee contends that the Interpled Funds are property of Debtor's bankruptcy estate.

The Settlement

8. The Trustee has negotiated a settlement of Svoboda's claims on the terms set forth in the Settlement Agreement and Mutual Release attached hereto as Exhibit A ("Settlement Agreement"). Pursuant to the Settlement Agreement, the Trustee and Svoboda have agreed to divide the Interpled Funds, with Svoboda receiving \$15,967.03 of the Interpled Funds (the "Settlement Payment") and the Trustee receiving the remaining \$143,703.25 of the Interpled Funds. The parties shall release and waive all other claims related to the Svoboda Cattle.

9. In accordance with the terms of the Plan, the \$143,703.25 of Interpled Funds received by the Trustee shall become part of the Collateral Fund (as that term is defined in the Plan).

Basis for Relief

10. Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), this Court has authority to approve a compromise or settlement on motion made by the Trustee after notice and opportunity for a hearing.

11. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. See In re Doctors Hosp. of Hyde Park, Inc., 474 F.3d 421, 426 (7th Cir. 2007); Depoister v. Mary M. Holloway Found., 36 F.3d 582, 586 (7th Cir. 1994); Matter of Energy Co-op, Inc. 886 F.2d 921, 927 (7th Cir. 1989).

12. The Trustee believes that the compromise and settlement reflected in the proposed Settlement Agreement is fair and equitable and in the best interests of the estate. The Settlement Payment is less than the Trustee would be required to spend to obtain a judgment as to the relative rights in and to the Interpled Funds. Accordingly, continued litigation with Svoboda would result in significant expenses and delay and a smaller recovery to the estate.

13. If no objections to this Settlement Motion are filed, the Trustee requests that the Court enter an order approving the Settlement Agreement. If any objections to this Settlement Motion are filed, the Trustee requests that this Settlement Motion and any timely filed objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court.

WHEREFORE, the Trustee respectfully requests that the Court enter an order approving the Settlement Agreement attached hereto as Exhibit A and grant the Trustee all other just and proper relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Shawna Meyer Eikenberry

Counsel for James A. Knauer, Chapter 11 Trustee

Terry E. Hall (#22041-49)
Shawna Meyer Eikenberry (#21615-53)
Kevin M. Toner (#11343-49)
Harmony Mappes(#27237-49)
Dustin R. DeNeal (#27535-49)
300 N. Meridian Street, Suite 2700
Indianapolis, IN 46204-1782
Telephone: (317) 237-0300
Facsimile: (317) 237-1000
terry.hall@faegrebd.com
shawna.eikenberry@faegrebd.com
kevin.toner@faegrebd.com
harmony.mappes@faegrebd.com
dustin.deneal@faegrebd.com

Wendy W. Ponader (#14633-49)
600 East 96th Street, Suite 600
Indianapolis, IN 46240
Telephone: (317) 569-9600
Facsimile: (317) 569-4800
wendy.ponader@faegrebd.com

CERTIFICATE OF SERVICE

I hereby certify that on February 11, 2014, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

David L. Abt
davidabt@mwt.net

Mark A. Robinson
mrobinson@vhlaw.com

C. R. Bowles, Jr
cbowles@bgdlegal.com

Jeffrey R. Erler
jerler@ghjhlaw.com

John Hunt Lovell
john@lovel-law.net

Edward M King
tking@fbtlaw.com

Randall D. LaTour
rdatour@vorys.com

Daniel J. Donnellon
ddonnellon@ficlaw.com

John W. Ames
james@bgdlegal.com

Jeremy S Rogers
Jeremy.Rogers@dinslaw.com

Meredith R. Thomas
mthomas@daleeke.com

Charles R. Wharton
Charles.R.Wharton@usdoj.gov

David L. LeBas
dlebas@namanhowell.com

Suzanne M Shehan
suzanne.shehan@kutackrock.com

Laura Day Delcotto
ldelcotto@dlgfirm.com

Ross A. Plourde
ross.plourde@mcafeetaft.com

Todd J. Johnston
tjohnston@mcjllp.com

Karen L. Lobring
lobring@msn.com

Elliott D. Levin
edl@rubin-levin.net

Sean T. White
swhite@hooverhull.com

Michael W. McClain
mike@kentuckytrial.com

James Edwin McGhee
mcghee@derbycitylaw.com

Amanda Dalton Stafford
ads@kgdlaw.com

David Alan Domina
dad@dominalaw.com

Jill Zengler Julian
Jill.Julian@usdoj.gov

Michael Wayne Oyler
moyler@rwsvlaw.com

James E. Rossow
jim@rubin-levin.net

Steven A. Brehm
sbrehm@bgdlegal.com

Patrick B Griffin
pat.griffin@kutackrock.com

John R. Carr, III
jrciii@acs-law.com

Stephen A. Weigand
sweigand@ficlaw.com

Robert Hughes Foree
robertforee@bellsouth.net

Ivana B. Shallcross
ishallcross@bgdlegal.com

William Robert Meyer, II
rmeyer@stites.com

James Bryan Johnston
bjtexas59@hotmail.com

Judy Hamilton Morse
judy.morse@crowedunlevy.com

John Huffaker
john.huffaker@sprouselaw.com

Kelly Greene McConnell
lisahughes@givenspursley.com

Walter Scott Newbern
wsnewbern@msn.com

Timothy T. Pridmore
tpridmore@mcjllp.com

Sandra D. Freeburger
sfreeburger@dsf-atty.com

John M. Rogers
johnr@rubin-levin.net

Jay P. Kennedy
jpk@kgdlaw.com

William E Smith
wsmith@k-glaw.com

Thomas C Scherer
tscherer@bgdlegal.com

Matthew R. Strzynski
mstrzynski@kdlegal.com

Kent A Britt
kabritt@vorys.com

Jeffrey L Hunter
jeff.hunter@usdoj.gov

Jason W. Cottrell
jwc@stuartlaw.com

James B. Lind
jblind@vorys.com

Anthony G. Raluy
traluy@fbhlaw.net

Jack S. Dawson
jdawson@millerdollarhide.com

Bret S. Clement
bclement@acs-law.com

John Frederick Massouh
john.massouh@sprouselaw.com

Kim Martin Lewis
kim.lewis@dinslaw.com

Deborah Caruso
dcaruso@daleeke.com

Allen Morris
amorris@stites.com

James T. Young
james@rubin-levin.net

John M. Thompson
john.thompson@crowedunlevy.com

Matthew J. Ochs
kim.maynes@moyewwhite.com

Andrew James Vandiver
avandiver@aswdlaw.com

Kirk Crutcher
kcrutcher@mcs-law.com

Theodore A Konstantinopoulos
ndohbky@jbandr.com

Lisa Koch Bryant
courtmail@fbhlaw.net

John David Hoover
jdhoover@hooverhull.com

John R. Burns
john.burns@faegrebd.com

Kayla D. Britton
kayla.britton@faegrebd.com

David A. Laird
david.laird@moyewwhite.com

Trevor L. Earl
tearl@rwsvlaw.com

Joshua N. Stine
kabritt@vorys.com

Amelia Martin Adams
aadams@dlgfirm.com

Robert A. Bell
rabell@vorys.com

Melissa S. Giberson
msgiberson@vorys.com

U.S. Trustee
ustpreion10.in.ecf@usdoj.gov

Dustin R. DeNeal
dustin.deneal@faegrebd.com

Shawna M. Eikenberry
shawna.eikenberry@faegrebd.com

James A. Knauer
jak@kgirlaw.com

Jessica Lynn Olsheski
jessica.olsheski@justice-law.net

Nicole R. Sadowski
nsadowski@thbklaw.com

Joseph H. Rogers
jrogers@millerdollarhide.com

Andrew D. Stosberg
astosberg@lloydmc.com

Christopher M. Trapp
ctrapp@rubin-levin.net

Jennifer Watt
jwatt@kgirlaw.com

William K. Flynn
wkflynn@strausstroy.com

Michael Benton Willey
michael.willey@ag.tn.gov

Chrisandrea L. Turner
clturner@stites.com

Scott R. Leisz
sleisz@bgdlegal.com

Terrill K. Moffett
kendalcantrell@moffettlaw.com

Matthew Daniel Neumann
mneumann@hclaw.com

Chad Duane Wuertz
chad@wuertzlaw.com

Terry E. Hall
terry.hall@faegrebd.com

Erick P. Knoblock
eknoblock@daleeke.com

Shiv Ghuman O'Neill
shiv.oneill@faegrebd.com

Eric C. Redman
ksmith@redmanludwig.com

James E. Smith
jsmith@smithakins.com

Kevin M. Toner
kevin.toner@faegrebd.com

Eric W. Richardson
ewrichardson@vorys.com

Joe Lee Brown
Joe.Brown@Hardincounty.biz

Thomas P. Glass
tpglass@strausstroy.com

Kay Dee Baird
kbaird@kdlegal.com

Paul M. Hoffman
phoffmann@stinson.com

Brian H. Meldrum
bmeldrum@stites.com

Natalie Donahue Montell
nmontell@bgdlegal.com

Brian Robert Pollock
bpollock@stites.com

Jay Jaffe
jay.jaffe@faegrebd.com

Harmony A. Mappes
harmony.mappes@faegrebd.com

Wendy W. Ponader
wendy.ponader@faegrebd.com

Joe T. Roberts
jratty@windstream.net

Christopher E. Baker
cbaker@thbklaw.com

Andrea L. Wasson
andrea@wassonthornhill.com

Joshua Elliott Clubb
joshclubb@gmail.com

Ben T. Caughey
ben.caughey@icemiller.com

Stephen E. Schilling
seschilling@strausstroy.com

David W. Brangers
dbrangers@lawyer.com

Martha R. Lehman
mlehman@kdlegal.com

Kevin J. Mitchell
kevin.mitchell@faegrebd.com

Erin Casey Nave
enave@taftlaw.com

Steven Eric Runyan
ser@kgirlaw.com

I further certify that on February 11, 2014, a copy of the foregoing pleading was served via electronic mail transmission on the following:

Thomas Richard Alexander, II
tra@rgba-law.com

/s/ Shawna Meyer Eikenberry